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PATENT

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UNITED STATES PATENT AND TRADEMARK OFFICE

In the PATENT APPLICATION of:

Jensen et al.

Application No.: 09/862,853

Confirmation No.: 8372

Filed: May 22, 2001

For: HINGE MEMBER PRODUCT DISPLAY
SYSTEM

Group: 3634

Examiner: Khoa H. Tran

Our File: AGI2-PT002.1

Date: July 1, 2004

SUPPLEMENTAL APPEAL BRIEF
PURSUANT TO 37 C.F.R. § 1.193(b)(2)(ii)

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby respectfully request reinstatement of this Appeal and submit this Supplemental Appeal Brief, in triplicate, in response to the Office Action dated April 9, 2004 wherein the Examiner reopened prosecution.

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(1) REAL PARTY IN INTEREST

The real party in interest is the assignee of record, ART GUILD, INC.

(2) RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Applicants which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

(3) STATUS OF THE CLAIMS

The application, as filed, contained claims 1-17. Claims 1 and 3-6 have been rejected and are being appealed. Claims 2 and 7-9 have been withdrawn from consideration as drawn to a non-elected species; claim 1 constitutes a generic claim per the November 22, 2002 Office Action. Claims 10-17 have been cancelled.

(4) STATUS OF THE AMENDMENTS

Applicants filed a Second Reply After Final canceling claims 10-17. This amendment has been entered.

(5) SUMMARY OF THE INVENTION

The invention is directed to a novel type of display sample for a wing design product display system. The claimed display sample comprises a product sample (20) to which opposed hinge members (50) are secured. See Figure 1 and specification at ¶ [0024]. Each of the hinge members (50), have a pin (56) extending therefrom for positioning in a respective support rail member or bracket (14, 16) of

the display system. See Figures 1, 1a, 9-10 and specification at ¶¶ [0024] and [0027]. The claimed display sample is unique since the rigidity of the product sample (20) maintains upper and lower hinge members (50) in a selected spacing so they can hingedly engage within respective upper and lower display system brackets. See Figure 1 and specification at ¶ [0027].

(6) ISSUES

- (1) Are claims 1, 3, and 6 anticipated by U.S. Patent No. 1,116,484 (Ralph)?
- (2) Are claims 1 and 3-6 obvious over U.S. Patent No. 1,116,484 (Ralph)?

(7) GROUPING OF CLAIMS

For purposes of this Appeal, Applicant has treated claims 1 and 3-6 as a single group.

(8) ARGUMENT

Applicants previously appealed the rejections of claims 1, 3, 4, and 6 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,237,782 (Hunn) in view of U.S. Patent No. 3,896,526 (Joiner). In response to Applicants' Appeal Brief the Examiner withdrew the rejection of record and re-opened prosecution based on a newly applied reference, U.S. Patent No. 1,116,484 (Ralph). See April 9, 2004 Office Action at pg. 1. As set forth in detail below, Ralph is no more pertinent to the

presently claimed invention than the two references (Hunn and Joiner) previously relied upon by the Examiner to reject the claims.

Claims 1, 3, and 6 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Ralph as follows:

Ralph discloses a display sample comprising:

a rigid product sample (24) having spaced apart upper and lower edge portions;

a wing type display (1) having an upper rail member (11) and a lower rail member (16); the lower rail member having a plurality of pin receptacles (20) to receive a lower hinge member (25) and the upper rail member (11) having a plurality of pin receptacles (20) to receive an upper hinge member (25), see Figure 1;

each hinge member having a pin member (29) extending therefrom and dimensioned to be received in a pin receptacle and first and second opposed portions (27) between which the respective edge portions (27) define a slot for receiving the respective edge portions. With respect to claim 6, both hinge members are identical in construction.

See April 9, 2004 Office Action at pg. 3.

Claims 1 and 3-6 have been rejected under 35 U.S.C. § 103(a) as being obvious over Ralph. Claims 1, 3, and 6 were rejected under § 103(a) for the same reasons set forth with respect to the rejection of those claims under § 102(a). With respect to claims 4 and 5, the Examiner additionally stated the following:

With respect to claim 5, it should be noted that the hinge members having suitable securing element, i.e., fasteners through holes 31 on the hinge members, see page 2, lines 22-25. ... With respect to claim 4, it would have been obvious to one of ordinary skill in the art at the time

of [sic.] the invention was made to modify the slot to of [sic.] Ralph to be frictionally fit with the product in order to avoid using securing elements.

See April 9, 2004 Office Action at pg. 4.

Because the Examiner's claim rejections under 35 U.S.C. § 102(b) and § 103(a) are substantially identical, they have been discussed together as set forth below.

Independent claim 1 of the present invention requires the rigidity of the product being displayed to maintain the spacing between upper and lower hinge members. In Ralph, the rigidity of the product sample does not maintain the selected spacing between the upper and lower hinge members. Ralph discloses a display having a frame (22) mounted to upper and lower corner caps (25), each corner cap having a pin (29, 29^a) that fits into one of the openings (14, 20) of the upper and lower bars (11, 16). *See* Figure 1. The frame (22) supports "a panel 24 which ordinarily is made of pulp board." *See* Ralph at Col. 3, lines 2-6. "To the panel 24 may be attached in any suitable manner, strips of paper adapted to cover the side walls of a room." *See* Ralph at Col. 3, lines 2-6.

Applicants' claims rely upon the rigidity of a product sample to maintain the spacing between the upper and lower hinge members. Because the product samples in Ralph are mounted to a panel supported by a frame, the product samples are not

responsible for maintaining the spacing between the upper and lower hinge members.

Applicants' claims are also distinguishable from Ralph because claim 1 expressly requires the upper and lower edges of the product sample to be secured within the first and second opposed portions of the upper and lower hinge members, respectively. In contrast, the product sample in Ralph is not secured to the corner members (25). Rather, the product sample is mounted to a panel (24); the panel (24) is received within the inner edge of a surrounding frame (22); and the upper and lower corners of the surrounding frame (22) are secured to the upper and lower corner members (25). *See* Figure 1. Accordingly, Ralph does not disclose or suggest upper and lower edges of the product sample being secured within upper and lower hinge members.

Accordingly, the rejections of claims 1, 3 and 6 under 35 U.S.C. § 102(b) and claims 1 and 3-6 under 35 U.S.C. § 103(a) should be withdrawn because the presently claimed invention cannot be anticipated by or rendered obvious over Ralph.

As an additional matter, claims 1 and 3-6 were objected to for minor informalities in the claim terminology. In accordance with the Examiner's remarks, Applicants will amend claims 1 and 3-6 to correct these informalities upon receipt of the Board's decision in this Appeal.

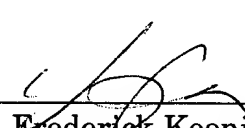
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(9) CONCLUSION

For the above reasons, Applicants respectfully submits that the presently claimed invention is patentable over the prior art. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

Jensen et al.

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APPENDIX A
(APPEALED CLAIMS OF U.S. PATENT APPLICATION NO. 09/862,853)

1. A display sample for a wing type display comprising:
a rigid product sample having spaced upper and lower edge portions;
an upper hinge member secured to the upper edge portion;
the upper hinge member including a pin, extending therefrom, dimensioned to be received in a pin receptacle of a wing type display, and first and second opposed portions between which the upper edge portion of the product sample is secured with the pin extending outwardly away from the product sample upper edge portion; and
a lower hinge member associated with the lower edge portion;
the lower hinge member including a pin, extending therefrom, dimensioned to be received in a pin receptacle of a wing type display, and the lower edge portion of the product associated with the lower hinge member for support with the lower member pin extending outwardly away from the product sample lower edge portion, such that the rigidity of the product sample maintains a selected spacing of the upper and lower member pins.

3. A display sample according to claim 1 wherein the upper hinge member includes a slot for in which an upper edge of the product sample is secured and the lower hinge member includes a slot in which a lower edge of the product sample is supported.

4. A display sample according to claim 3 wherein the upper and lower hinge members are secured to respective edges of the product sample by a friction fit.

5. A display sample according to claim 4 wherein the upper and lower hinge members are secured to respective edges of the product sample by a fastener.

6. A display sample according to claim 1 wherein the upper and lower hinge members have a common construction, the upper hinge member is secured to an upper edge of the product sample and the lower hinge member is secured a lower edge of the product sample.